



WESTFIELD-WASHINGTON TOWNSHIP  
BOARD OF ZONING APPEALS

July 13, 2021  
2107-VS-23  
Exhibit 1

**Petition Number:** 2107-VS-23

**Subject Site Address:** 1609 East Greyhound Pass (the "Property")

**Petitioner:** Charles E. Duke (the "Petitioner")

**Request:** The petitioner requests a Variance of Development Standard to exempt the Architectural requirements for Business Districts for building additions on 1.03 acres +/- in the GB: General Business District (UDO 6.3(F)).

**Current Zoning:** GB: General Business District

**Current Land Use:** Commercial

**Approximate Acreage:** 1.03 acres +/-

**Exhibits:**

1. Staff Report
2. Location Map
3. Site Plan
4. Elevations
5. Narrative Statement
6. Application

**Staff Reviewer:** Rachel Riemenschneider, Associate Planner

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**OVERVIEW**

Location: The subject property is 1.03 acres +/- in size and located at 1609 East Greyhound Pass (see **Exhibit 2**). The Property is zoned GB District. Adjacent properties north, south, and east are zoned GB District. Properties to the west are zoned SF2 District.

Variance Request: The Petitioner is requesting a Variance of Development Standard to exempt the Architectural requirements for Business Districts for building additions.

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**SUMMARY OF VARIANCE**

The Petitioner is constructing two building additions. They are requesting to exempt the business district architectural standards for the additions to match the existing building (**Exhibit 3**).

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## **COMPREHENSIVE PLAN**

The Westfield-Washington Township Comprehensive Plan identifies the majority of this Property as being within the “Regional Commercial”<sup>1</sup> land use classification. Desired land uses in Regional Commercial include regional retail, office, attached residential dwellings. The remainder of the Property is within the “Existing Suburban” land use classification. Desired land uses in Existing Suburban include detached dwellings, attached dwellings, institutional uses, and recreational uses.

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## **PROCEDURAL**

**Public Notice:** The Board of Zoning Appeals is required to hold a public hearing on its consideration of the Variance of Development Standard. This petition is scheduled to receive its public hearing at the July 13, 2021, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

**Conditions:** The UDO<sup>2</sup> and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by the variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

**Acknowledgement of Variance:** If the Board of Zoning Appeals approves this petition, then the UDO<sup>3</sup> requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

**Variance of Development Standard:** The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. Variances may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

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<sup>1</sup> Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (p. 24).

<sup>2</sup> Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

<sup>3</sup> Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

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#### **DEPARTMENT COMMENTS**

**Approval:** If the Board is inclined to approve the variance, then the Department recommends the following conditions and findings:

**Recommended Conditions for Approval:**

1. That the Variance only applies to the building additions being reviewed under the Detailed Development Plan (2105-DDP-16);
2. That the building additions shall be constructed in substantial compliance with the building elevations (**Exhibit 4**);
3. That the Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

**Recommended Findings for Approval of the Variance of Development Standard:**

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

**Finding:** It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the Property currently operates and complies with all other standards of the Unified Development Ordinance (UDO). Additionally, constructing the building additions with materials that match the current building's materials would be more consistent with the construction methods of neighboring and nearby commercial buildings. That is, using a consistent material for the whole building is common in this area of the community.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

**Finding:** It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The building additions will improve the quality of the lot by adding square footage that otherwise fully complies with the UDO standards. Additionally, constructing the building additions with materials that match the current building's materials would follow the existing construction pattern of nearby commercial buildings.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

**Finding:** Strict adherence to the zoning ordinance would result in the inability to continue the existing architectural style onto the building additions. The UDO's architectural standards otherwise would require masonry and off-sets that do not match the architecture of the existing building.

**Denial:** If the Board is inclined to deny either of the requested variances, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence and Board discussion.